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Introduction

The Onsite Sewage Program handles two types of hearings. All registered onsite wastewater treatment system (OWTS) industry professionals (registered installers, registered soil testers, and licensed inspectors) may have their state registration/license suspended or revoked by DHSS for violations of Missouri law or rules. A decision of DHSS may be appealed to the Administrative Hearing Commission.

Property owners receiving a section 701 Violation Notice may also request a written review or hearing. This hearing process is a formal administrative procedure designed to handle appeals regarding the remedial action required by a Violation Notice issued by DHSS or a Local Public Health Agency.

Duties of Onsite Sewage Program Staff and Office Support

Work with DHSS legal counsel through the Administrative Hearing Commission process.

Duties of other DHSS Staff

Be available if needed to provide testimony or information for the hearing.

Common Responsibilities of Local Public Health Agency

Be available if needed to provide testimony or information for the hearing.

Hearings for OWTS Professionals

OWTS professionals whose registration/license has been suspended or revoked may appeal the DHSS decision regarding their registration to the Administrative Hearing Commission as provided for by Chapters 536 and 621 RSMo. If the decision of DHSS is upheld, the suspension or revocation will stand.

Hearings for Owners of Malfunctioning OWTS

After receipt of a Notice of Violation, the system owner or user may request a hearing to determine the appropriateness of the required remedial action. A hearing cannot establish guilt or innocence regarding the alleged violation. The hearing process for violation of onsite laws and regulations is as follows:

1. When a timely hearing request is received, the Onsite Sewage Program or other DHSS staff will review all documentation related to the 701 investigation and subsequent Notice of Violation issued by the LPHA;
2. If problems are noted, the LPHA will be asked to rescind the original notice, and if supported by the investigation, reissue a complete Notice of Violation with appropriate remedial action requirements and a new timeframe;
3. If the original notice is in order, the Onsite Sewage Program will provide copies of investigation documents and Notice of Violation to DHSS Legal Counsel, set a time for a hearing, and provide copies of the notice and hearing request to the hearing officer;

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4. The hearing officer will notify the hearing requestor of the hearing;
5. A formal hearing is held in Jefferson City;
 - a. LPHA and DHSS environmental public health staff may give oral testimony at the hearing;
 - b. The hearing officer reviews all pertinent documentation and oral testimony.
 - c. A copy of the hearing transcript is sent to the individual that requested the hearing and the Onsite Sewage Program;
 - d. The hearing officer renders a decision in writing, and communicates to appropriate persons;
 - e. This decision may be appealed to the Administrative Hearing Commission or the Circuit Court.
6. If the DHSS and LPHA actions are upheld, the Notice of Violation stands and the local authority will continue to work with the system owner/user to get compliance, and will seek prosecution if necessary.

AUTHORITY

701.025 – 701.059 RSMo

19 CSR 20-3.060

19 CSR 20-3.070

19 CSR 20-3.080